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Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

S. O. Bland and *R. G. Bickford*, both of Newport News, and *Henry Taylor, Jr.*, of Richmond, for plaintiff in error.

Frank Armistead and *Ashton Dovell*, both of Williamsburg, for defendant in error.

AUSTIN *v.* SANDERS.

Jan. 24, 1918. Rehearing Denied March 27, 1918.

[95 S. E. 273.]

1. **Equity (§ 43*)—Jurisdiction—Adequate Remedy at Law.**—As courts of equity have elementary jurisdiction to render decrees for the value of deficiency in quantity of land sold by the acre, it is immaterial that complainant has an adequate remedy at law.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 171; 13 Va.-W. Va. Enc. Dig. 536.]

2. **Vendor and Purchaser (§ 350*)—Actions—Deficiency—Evidence.**—In an action against a vendor to recover for deficiency in quantity of a parcel of land sold, evidence held insufficient to show any misrepresentations on the part of the vendor, and that all misrepresentations made by the agent who effected the sale and who became a partner of the complainant, the purchaser, in acquiring the property, were made either before he became the agent of the vendor or after he became a partner with the complainant, so that the vendor was in no way responsible.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 552.]

3. **Vendor and Purchaser (§ 350*)—Deficiency—Actions—Evidence.**—In an action for deficiency in quantity of parcel of land sold, evidence held insufficient to show that the sale was made either expressly or impliedly by the acre so as to warrant recovery, notwithstanding the memorandum of the contract of sale stated the parcel of land was supposed to contain 800 acres.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 552.]

Sims, J., dissenting.

Appeal from Circuit Court, Prince William County.

Suit by Frederick R. Austin against Frederick H. Sanders. From a decree dismissing the bill, complainant appeals. Affirmed.

E. Hilton Jackson, of Washington, D. C., and *C. A. Sinclair*, of Manassas, for appellant.

John M. Johnson, of Alexandria, and *Thos. H. Lion*, of Manassas, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.